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# HEARINGS

<sup>4-5.</sup>  
HELD BEFORE THE COMMITTEE ON THE PUBLIC LANDS  
OF THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 1908

ON

H. R. 16277

TO PROVIDE FOR THE SALE OF LARGE-GROWTH  
AND MATURED TIMBER ON LANDS HERETOFORE  
GRANTED TO THE TERRITORY OF NEW MEXICO,  
AND FOR OTHER PURPOSES

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WASHINGTON

GOVERNMENT PRINTING OFFICE

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## SALE OF TIMBER. TERRITORY OF NEW MEXICO.

COMMITTEE ON PUBLIC LANDS,  
*Saturday, February 8, 1908.*

Committee called to order, Hon. F. W. Mondell in the chair.

### STATEMENT OF HON. GEORGE CURRY, GOVERNOR OF THE TERRITORY OF NEW MEXICO.

The CHAIRMAN. Gentlemen, we have Governor Curry, of New Mexico, with us this morning, accompanied by other gentlemen from that Territory, who desire a hearing upon the bill (H. R. 16277) to provide for the sale of large-growth and matured timber on lands heretofore granted to the Territory of New Mexico.

Before we proceed, I would like to read to the committee a letter, under date of February 6, 1908, from the Secretary of the Interior, bearing upon this bill. (Reads:)

DEPARTMENT OF THE INTERIOR.  
*Washington, D. C., February 6, 1908.*

SIR: I am in receipt of your letter of February 5, 1908, transmitting copy of H. R. 16277, and requesting an early report thereon.

The purpose of the bill is to permit the Territory of New Mexico to sell the large-growth and matured timber on any of the lands granted to the Territory by the act of June 21, 1898 (30 Stat. L., 484), and to afford relief to those who have heretofore acquired by contract, or attempted purchase from the Territory, some colorable right or title in or to the lands.

Under the provisions of the act of June 21, 1898, the lands granted to the Territory for schools and the two townships granted for university purposes, can not be sold by the Territory, but can be leased in tracts not exceeding one section to any one person, corporation, or association of persons, but it is "unlawful to cut, remove, or appropriate in any way any timber growing upon the lands released." The remaining lands granted to the Territory under the act are subject to sale by the Territory but not more than one quarter section of land can be sold to any one person, corporation, or association of persons.

The Territory has selected and had approved to it large areas of lands chiefly valuable for their timber, which have since been included in national forests, and under a supposed or claimed right the officers of the Territory have granted four contracts for the cutting of the large growth and matured timber thereon at the price of \$2.50 per acre. These tracts are all in excess of the area that can legally be leased or sold to any one person, corporation, or association of persons, and some embrace school and university lands, the timber of which constitutes a part of the realty and can not be sold (31 L. D., 188).

Sales have also been made in numerous instances to applicants for tracts for 160 acres each, the applicants appearing in the interests of corporations that actually paid the Territory for the land and immediately took over the applicant's interests.

Suits have been filed by the United States to annul all of these contracts and sales, and are now pending in the United States courts of the several districts of New Mexico.

The Department recognizes the necessity for legislation that will permit, under suitable restrictions, the sale of the large-growth and matured timber on the lands granted the Territory in tracts exceeding 160 acres; otherwise, the land chiefly valuable for its timber will be of no practicable benefit to the institutions for which it was selected, and legislation to that end is urged, as all of the Territorial institutions are in need of the revenue that can be derived from that source.

In granting to the Territory the right to dispose of its timbered lands as provided, I think it eminently proper to afford relief to those who have hitherto been operating under contracts with the Territory, even though the Territorial authorities had no legal authority to make the contracts. An examination of these lands in the field convinces me that the timber on the lands at the time these contracts were made was reasonably worth \$3 per acre, and the institutions should receive that amount before the contracts are ratified.

As to the lands that were acquired through intermediary applicants, the title should clearly be reinvested in the Territory for the use of the institutions for which they were granted. In view of the fact that the present holders of the record title have paid to the Territory, if permitted to cut the timber thereon, I believe that equitable consideration of their case justifies, and the best interests of the Territory demand, such adjudication, rather than prolonged litigation that will disturb material interests of the Territory.

The acreage of lands embraced in the contracts and sales is, approximately, 100,000 acres, of which about 90,000 acres are within established national forests.

The conditions under which the timber has heretofore been harvested and the situation of the lands renders them peculiarly valuable for forest purposes, and where practicable they should be made a part of the national forests.

The bill, as a whole, meets my approval, and, in the interests of the Territory, I recommend its early enactment.

Very respectfully,

(Signed)

JAMES RUDOLPH GARFIELD,

*Secretary.*

Hon. F. W. MONDELL,

*Chairman Public Lands Committee,*

*House of Representatives.*

Governor CURRY. Mr. Chairman and gentlemen, my predecessor in office, and the land board of the Territory, having advised with the Attorney-General, were of the opinion that the Territory had a right to sell timber of this kind that had been conveyed in trust for the uses of the educational institutions of the Territory; but the Interior Department had an investigation made, and the matter was referred to the Department of Justice. The Department of Justice decided that it was illegal, that the Territorial officials had exceeded their authority, and they had instituted several suits to recover the title to land, and also for an accounting upon the timber. That was also accompanied by some injunctions against the further cutting of the timber. That action, of course, has caused our lumber sawmills to shut down, throwing a good many laborers out of employment. We are very anxious that these mills shall resume operations as soon as possible. After discussing the matter with the Secretary of the Interior, and after a conference here at Washington between all the parties interested in these land transactions, this bill is the result. The Attorney-General will not dismiss the proceedings unless we get some legislation through Congress, as he holds that there has been a violation of law, and that it had become his duty to institute proceedings, and to continue the prosecutions unless we can get some relief from Congress. I think that the bill amply protects the interests of the Territory.

The CHAIRMAN. As I understand the bill, it provides for an additional payment of 50 cents per acre by those who made the leases in each case?

Governor CURRY. Yes.

The CHAIRMAN. It also provides that where the lands were sold they shall be reconveyed to the Territory, the parties who purchased being allowed to take the timber from the land, so that the Territory in each case shall obtain \$3 per acre for the timber.

Governor CURRY. For the timber cut; yes, sir.

The CHAIRMAN. That is considered a fair price for that timber?

Governor CURRY. Yes; \$3 per acre is considered a fair price.

The CHAIRMAN. The timber in your Territory is similar to the lodge-pole pine and spruce of the Rocky Mountain country generally and is not a heavy and valuable timber such as they have on the Pacific coast?

Governor CURRY. Oh, no; there is no comparison between our timber and the timber of the Pacific coast. Our timber is similar to that in other sections of the Rocky Mountain region. We call about 3,000 feet to the acre a very good timber cut, but I suppose that would be a small cut in a timber country like the Pacific coast.

Mr. SMITH, of California. What is the size of the largest trees?

Mr. KELLY. Occasionally we find a tree that will cut as high as a couple of thousand feet.

Mr. SMITH, of California. What is the diameter of the tree near the ground?

Mr. KELLY. Three feet to 3½ feet.

The CHAIRMAN. But those trees are nothing like as tall as a tree of the same diameter on the Pacific coast?

Mr. KELLY. Oh, no.

The CHAIRMAN. A tree of that diameter on the Pacific coast would be a very good-sized tree.

Mr. KELLY. Yes.

The CHAIRMAN. But in your country, as in mine, a tree of that diameter would not cut many 16-foot logs?

Mr. KELLY. Oh, no. I should think that the average of the timber on the tract of land that I have purchased from the Territory would be probably 18 or 20 inches.

The CHAIRMAN. And what would you say would be about the amount of board measure per acre?

Mr. KELLY. Between 3,000 and 3,500 feet.

Governor CURRY. Under this bill we propose to make contracts with the parties as to the size of the timber that can be cut. Of course the matured timber only would be cut; the other would be left standing. And under the provisions of this bill the land in the forest reserve—the forest reserve that has already been established—we can select lieu land in other places for these institutions and turn those lands over to the forest reserve after the matured timber has been cut.

Mr. PARSONS. Who is going to supervise the cutting?

Governor CURRY. The officials of the Territory until such time as we select lieu lands, and after that it would be the officials of the Forestry Bureau.



Mr. PARSONS. Is this land all situated in one tract, or is it scattered over the Territory.

Governor CURRY. It is scattered over the Territory; it is in four different sections of the Territory.

Mr. BYRD. Is this Territory in need of funds to be realized from this unappropriated land?

Governor CURRY. Yes; our university is supported almost entirely by the revenues from it.

Mr. BYRD. In regard to the contracts made with these mill people, do you think it would be for the best interests of your institutions, taking into consideration the rapidity with which timber is being depleted in this country, to sell that timber? I do not have reference to that which has been contracted for in good faith, but I am referring to the other lands.

Governor CURRY. We will be in no great hurry to sell it.

Mr. BYRD. But do you not think it would be best to allow it to remain?

Governor CURRY. This bill simply gives us the authority to sell with the approval of the Secretary of the Interior.

Mr. BYRD. I would like to call the attention of the committee to one fact. We had university land in our State, and the legislature was asked, at one time, to sell it at \$1.25 an acre, but the bill did not pass. The land to-day is worth \$25 an acre. Of course I do not want to say anything against these men who in good faith contracted for this land, but so far as the other part of the land is concerned, I think it is a great mistake to sell it. Trees that will cut 2,000 feet will certainly be worth \$20 an acre twenty years from now, while it is now only selling for \$3 an acre.

Governor CURRY. But the Territory of New Mexico only owns a small amount of timber land. We own more agricultural land. Practically all of our timber land has already been included in forest reserves. The National Government, under certain conditions, has a right to and does sell matured timber, and holds that it is to their interest to sell matured timber and let the younger timber grow up.

Mr. GRONNA. How much of this land is now contracted for?

Governor CURRY. About 104,000 acres.

Mr. BYRD. If I understand, the school land has been put in the forest reserve. Does the Government hold that in trust for the schools, or has that act destroyed the title?

Governor CURRY. No; the Territory holds it in trust subject to legislation by the future State. The only thing we can do now is to lease it. We can not sell any school lands.

Mr. BYRD. I am referring to the timbered school lands in the forest reserves.

Governor CURRY. The same rule applies to that.

Mr. BYRD. That is being held by the General Government for the benefit of the schools?

Governor CURRY. Yes, sir.

Mr. BYRD. And none of the land sold is included in that?

Governor CURRY. No. This was a special donation for educational institutions.

The CHAIRMAN. Governor Curry, approximately, how many acres of land does New Mexico own? I am referring to timber land other than the land now under contract.

Governor CURRY. I think we own about 120,000 acres in addition to this.

The CHAIRMAN. Are the other lands which you own approximately of the same character as those now under contract?

Governor CURRY. The 120,000 acres is; yes, sir.

Mr. BYRD. This timber land, after the timber is taken from it, is suitable for homestead purposes, is it not?

Governor CURRY. Yes, in some places. In most of the places it is.

Mr. SMITH of California. Do you contemplate that it would re-timber itself?

Governor CURRY. Under our regulations we leave on the land all trees under 8 and 10 inches.

Mr. SMITH of California. And expect it to be devoted to the forest reserve and not to agriculture?

Governor CURRY. Yes.

The CHAIRMAN. In the entire Rocky Mountain region pine generally succeeds pine. It is a rather unusual phenomenon, because in many timbered regions an entirely new variety of timber grows when the original growth is cut off. But in your Territory, I assume, as in my State, when the pine is cut, if conditions are such that the tract has been seeded, the succeeding growth is pine of the same character as that cut?

Governor CURRY. I think so; yes, sir.

Mr. REYNOLDS. How far is this timber from transportation?

Governor CURRY. The timber that has been sold is reasonably close, because the parties who bought it built a railroad to it for the purpose of getting it. In the Sacramento Mountains our lands are reasonably close to the other—that is, we adjoin them, so that enhances the value of the lands that we retain ownership to.

Mr. REYNOLDS. What railroad is that that you refer to?

Governor CURRY. One of them is the connection of the Rock Island, and the other is the Santa Fe.

Mr. REYNOLDS. How far have they built in from the main line?

Governor CURRY. From Alamogordo to the sawmills is about 30 miles. On the other road it is 20 to 24 miles.

Mr. REYNOLDS. These branch roads are owned by the parties who acquired these titles, are they not; and the Territory has no interest in them under any of these contracts?

Governor CURRY. No, sir.

Mr. REYNOLDS. Then they have a right to remove their roads?

Governor CURRY. I think they have. In the case of the Alamogordo road they have not, but as to the other I think they have.

Mr. REYNOLDS. In what way would any other men have any right of use of any of these roads?

Governor CURRY. The Rock Island is a permanent road, and under their charter they have to maintain it.

Mr. REYNOLDS. And that would materially increase the value of these other lands?

Governor CURRY. Materially increase the value, yes. During my administration I have not sold any land. Our legislature passed a

bill at the last session, or the session before, prohibiting the sale of land of any character at less than \$3 per acre.

Mr. BYRD. Do you think, when this timber is cut off, under any sale that you might make under this bill, there would ever be in the future sufficient timber on the lands to justify the building of a sawmill?

Governor CURRY. A great many gentlemen figure out that there will be, though I do not.

Mr. BYRD. Then if you sell timber at \$3 an acre, that ends it?

Governor CURRY. That ends the value of it for thirty or forty years anyway, and probably longer.

The CHAIRMAN. Eventually this land, such as is not used for agricultural purposes, and not so taken, will reforest, will it not?

Governor CURRY. The plan is to turn these lands over to the Forestry Bureau to be reforested, and the Territory is to select lieu land at some other place.

The CHAIRMAN. I am talking now of the lands from which this bill authorizes you to sell the matured timber. As to all those lands, after the matured timber is cut, there is no question as to their reforestation in the course of time, is there?

Governor CURRY. Unless they should be taken for agricultural purposes. I personally believe that it would be more valuable for grazing purposes; still, at the same time, most people disagree with me. I am not an expert on timber; I know very little about it, but there are one or two gentlemen present here who can give you much more valuable information on this subject than I.

The CHAIRMAN. If the land were taken and plowed up, it of course would not reproduce timber, but as to such land that is covered with rock, gulches, draws, and canyons, as much of your timber lands is, they would gradually reforest, would they not?

Governor CURRY. I think so, but it would take a long time.

The CHAIRMAN. That is true of the Rocky Mountain region from the Canadian line to Mexico as I know it, although of course the tree growth is very slow indeed.

Mr. SMITH of California. What is the rainfall there?

Mr. HOLCOMBE. About 19 inches.

The CHAIRMAN. Isn't it a fact, Governor, that, as regarding matured timber on the lands owned by the Territory, if it is not cut within a reasonable time, a large portion of it will die?

Governor CURRY. Yes, sir.

The CHAIRMAN. And that having attained its growth, if the people of the Territory are to have any benefit from it, it must be cut when it has become matured?

Governor CURRY. Those parties who have given a study to forestry say that it ought to be cut, especially the matured timber, in order to allow the younger timber to grow up.

The CHAIRMAN. In my State the forests in reserves are being cut over to an extent that none of our lands were ever cut prior to the establishment of the forest reserves. It is the policy of the Forest Reserve Bureau of the Government to sell all matured timber as fast as there is a reasonable demand for it.

Governor CURRY. They are doing that in New Mexico also.

The CHAIRMAN. If your Territory has 120,000 acres of land containing matured pine timber, and you have no authority to sell

that timber, isn't it a fact that a large portion of that timber is going to die and fall, and the people of the Territory will therefore receive no benefit from it?

Governor CURRY. I think so; yes, sir.

The CHAIRMAN. And isn't it also true that owing to the scarcity of timber, compared with the area of your country, it is absolutely essential that the people of the Territory shall have the timber as it matures for the building up of their communities?

Governor CURRY. I think it is to the interest of the Territory to have it, and that is the object of this bill.

The CHAIRMAN. Otherwise you would have to bring in timber from the Pacific coast at great cost?

Governor CURRY. Yes, sir.

Mr. SMITH, of California. I was going to ask you what the lumber supply would be if we restricted the use of timber from the lands all over the country; where could you get lumber?

Governor CURRY. The forest reserve is practically all there is.

Mr. SMITH, of California. I suppose that you have a restriction there also?

Governor CURRY. Yes; and as to some of the land-grant lands also.

Mr. SMITH, of California. Then your lumber supply would be outside of the Territory and on the Pacific coast?

Governor CURRY. Part of it; that is, outside of our forest reserves we would have to go outside the Territory.

The CHAIRMAN. They do ship into your Territory some yellow pine from the Mississippi Valley States, do they not?

Governor CURRY. They ship it from the South somewhere, but I think from Texas.

Mr. SMITH, of California. What is the prevailing price of lumber in the yards throughout the Territory?

Mr. KELLY. Twenty dollars a thousand is the average price through our country.

Mr. BYRD. I would like to ask if this land is for the benefit of the schools, and if so, how can you reason that it would be to the best interests of the schools to sell it in order to give people cheap lumber?

Governor CURRY. This is not for the benefit of the public schools; we have other land set aside for the public schools; but it is for the Territorial institutions. As you know, we are comparatively poor, yet I think the Territory of New Mexico has contributed more, in proportion to her wealth, than any State or Territory of the United States toward the establishment of educational institutions. I think, perhaps, we have established too many, but the people were determined to leave no stone unturned toward the education of the youth of the Territory; and in addition to the public schools we have established several universities, a normal school, a school of mines, military schools, and an agricultural college.

Mr. BYRD. Do you not think, in view of all of these extra educational burdens, that it would be worth more to the Territory to let this timber land remain intact until you secure statehood and get more people out there, than to dispose of it now?

Governor CURRY. We think that if we could get a good price for it—we do not propose to give it away—but this bill requires this land to be sold at some price fixed by the legislature, with the approval of the Secretary of the Interior. We need the money for

educational institutions more now than ever for the reason that our taxation is low. We exempt all railroads from the law, and we think that within a year or two the railroads will be paying taxes, and the burdens that are upon the people now will then be upon others.

Mr. BYRD. Lumber is selling on the market at \$20 a thousand, and do you not know that the value of timber standing is over 90 cents per thousand?

Governor CURRY. But close to the railroads we propose to get more than that. We do not propose to sell it for \$3 if we can get more, but we will sell it for as much as we can get.

Mr. BYRD. In southern Texas and in southern Mississippi, and all through the yellow-pine belt of the South, the timber will bring \$20 an acre on the market.

Governor CURRY. But I think that is a better grade of timber.

Mr. BYRD. I think it is selling for that amount—that is, cutting that amount per acre.

Governor CURRY. Of about 3,000 feet?

Mr. BYRD. Yes.

Governor CURRY. I really do not know. I am not an authority on timber and have very little knowledge of the timber business.

The CHAIRMAN. You have no yellow pine?

Governor CURRY. No; we have not. Our timber has all been of an inferior quality to that of Oregon pine or to the Texas lumber, either; in fact, ours is used mostly for ties and railroad timber. It is better for that purpose than anything else.

The CHAIRMAN. That portion of your native timber that is used for domestic purposes—house building, and so forth—is used as dimension and rough lumber, is it not?

Governor CURRY. Very largely.

The CHAIRMAN. And you secure your finishing lumber from outside of your Territory, in the main, do you not?

Governor CURRY. Yes, sir.

Mr. PARSONS. You mentioned some valley where a good deal of this land was.

Governor CURRY. Yes; the Sacramento Mountains.

Mr. PARSONS. Where does this branch of the Rock Island run in from?

Governor CURRY. It leaves the Rock Island at Alamogordo and goes up into the mountains. Alamogordo has an elevation of about 3,500 feet, and the road runs up to an elevation of 9,000 feet. It is called the Cloudcroft branch of the Rock Island. The road has a good roadbed and is built permanently. Of course they change it in places a little from time to time to get the timber, but the branch line from the main line up into the mountains is a permanent railroad.

Mr. PARSONS. Does it just end in the mountains?

Governor CURRY. Yes; it ends there. There is a summer resort there in the summer time, but otherwise it is used as a logging road. In addition to this land we sold them they script a great deal of land before, and bought out a great many private individuals, so that the Alamogordo Lumber Company owns two or three times as much land as we sold them.

The CHAIRMAN. Your timber land in New Mexico is all at a high elevation.

Governor CURRY. Yes, sir.

The CHAIRMAN. Your lowlands are too arid to produce forests?

Governor CURRY. There are no forests in the lowlands. It is limited to the highlands.

The CHAIRMAN. The timber only occurs at the high altitude, which receives a greater precipitation than the lowlands?

Governor CURRY. Yes, sir; it is a highland, and, as a rule, it is very rough.

Mr. CRAIG. What official have you in your Territory who can look after the cutting of the timber, and who will see that only matured timber is cut?

Governor CURRY. We have the commissioner of public lands, who has a well-regulated force under him to look after that.

Mr. CRAIG. What timber would he consider as being large timber; that is, matured timber?

Governor CURRY. We follow very largely the forestry regulations in making our contracts, just the same as the Forestry Bureau does.

Mr. CRAIG. I do not know what that is, but does that refer only to matured timber?

The CHAIRMAN. That refers ordinarily to timber above 8 inches, breast-high.

Mr. CRAIG. Is that what is known as "matured timber?"

The CHAIRMAN. Anything about 8 inches, breast-high, of lodge pole pine is generally cut. It grows very slowly after attaining that size.

Mr. BYRD. How many years is represented in the growth of that timber in the mountains? Do you not suppose it has been there three or four thousand years?

Governor CURRY. I think it remains about the same after it has received its growth, and the old timber gets down, the younger timber replacing it.

Mr. BYRD. It will replace itself as fast as it rots down, will it not?

Governor CURRY. I think so.

Mr. BYRD. You are not going to lease anything upon the idea that it is fast decaying and rotting. If you are going to cut the large trees down and leave those 8 inches in diameter breast-high, how long would it take before you would have a forest like your present one?

Governor CURRY. We have 1,200,000 acres of timber land in addition to that in the forest reserves.

Mr. BYRD. How many thousands of years will it take to replace the growth on the mountains, I mean?

Governor CURRY. From what the forestry officials tell me, I suppose it would take about thirty or forty years. But I am not an authority on the timber question.

Mr. HOLCOMBE. A timber man here says it would take about twenty years.

The CHAIRMAN. Shall we now pass to the second section of the bill.

Governor CURRY. Before we do that I would like to make one statement. In addition to the revenue derived from the timber during the last sixteen months we have had 100,000 people come into our Territory that are taking up land and building homes. We want those people to be able to get lumber for building purposes at reasonable prices, so we figure that it would pay us, even if we sell lumber

at a reasonable price, to let them have it. Those people are going to pay taxes on the land that they are taking up, and our taxable values will greatly increase, which, we think, will amply compensate us for any losses made otherwise. We are very anxious to build up our Territory.

Mr. BYRD. Do you not think it would better to release some of the forest reservations than to allow you to sacrifice the school lands?

Governor CURRY. I agree with you, but that can not be done. The General Government gives very little to New Mexico.

The CHAIRMAN. Governor, I would like to ask some questions in regard to the provisions in the last half of section 1, and the remainder of the bill; that is, in regard to the validating of these contracts. You are of the opinion that the additional payment of 50 cents an acre, which is provided for, is a fair payment under the circumstances?

Governor CURRY. Yes. I think \$3 per acre was a fair price for the land at the time it was purchased.

Mr. PARSONS. In regard to section 1, does it refer only to the timber already purchased?

Governor CURRY. Yes; that is, that part of it.

The CHAIRMAN. The first portion of section 1 grants the Territory authority which it has not at this time?

Mr. PARSONS. The proviso relates only to the contracts heretofore made.

Mr. HALL. In the first half of the section, relative to future sales not affected by existing contracts, there is no limitation on the price whatever; there is no minimum stated.

Governor CURRY. Congress, in granting the lands, fixed a minimum price at \$1.25, but our Territorial legislature has fixed a minimum price of \$3 per acre. That is regulated by the Territorial legislature, and I think the next legislature will undoubtedly increase that.

Mr. HALL. That act of the legislature would not be legal, would it, until there is legislation of this character which would authorize the Territory to sell the timber; that is, any price that they might fix would not be legal.

Governor CURRY. We have the right, under the present law, to sell 160-acre tracts, but where it is in larger acreage than that we can not do it.

The CHAIRMAN. The minimum price fixed by the act of Congress does not prohibit the Territory charging a higher price; as a matter of fact, it is contemplated that they may place a higher price upon the land if in their wisdom they deem best.

Governor CURRY. We can not sell any land under our laws for less than \$3 per acre, and of course we sell it for as much above that sum as we can get. These particular lands that we are selling now are 160-acre tracts, largely used for homesteads.

The CHAIRMAN. So that under the provisions of the present bill you could sell timber from these lands at \$3 an acre and upward, providing the contract was approved and the price approved by the Secretary of the Interior?

Governor CURRY. No, sir; not any more than 160-acre tracts. We can sell it in 160-acre tracts without the approval of the Secretary of the Interior.

The CHAIRMAN. I am speaking of the bill under consideration.

Governor CURRY. Oh, yes.

The CHAIRMAN. Under that bill, as to your remaining timber lands, you could contract to sell matured timber upon such lands at any price above \$3 per acre under the rules prescribed by your commissioner and approved by the Secretary of the Interior?

Governor CURRY. Yes.

The CHAIRMAN. The approval of the Secretary of the Interior being necessary to the completion of any sale or contract both as to price and conditions?

Governor CURRY. Yes; that was put in as an additional safeguard in the interest of the Territory.

Mr. PARSONS. Do those rules and regulations which the Secretary of the Interior has to approve refer to the price necessarily?

Governor CURRY. Oh, yes; they are contracts.

Mr. HALL. In most land grants to States for educational purposes there is an express limitation of a minimum at which the lands can be sold contained in the act itself, and it is not left to the action of the State to prescribe the minimum; in fact, it is a constitutional provision in all of the States which I am familiar with, so that any act of the State legislature would be ineffectual in reducing the minimum price.

Governor CURRY. Yes, sir.

Mr. HALL. But as I understand it, in this case there is no minimum price fixed in this bill presented here, but that it is proposed to leave that question of minimum price to the Territorial legislature.

Governor CURRY. It can not be less than \$1.25 an acre. That is provided for in the original act.

Mr. HALL. In this act it does not provide any minimum price, but would leave it to the legislature; that is, the prospective legislation of the Territory?

Governor CURRY. With the approval of the Secretary of the Interior, however. There is no objection to changing the price from \$1.25 to \$3 per acre if you want to.

Mr. HALL. Don't you think it would be better to fix some minimum price right in the act itself instead of leaving it for some other authority to fix?

Governor CURRY. Yes, instead of trusting the legislature.

Mr. HALL. It is customary, as I say, in enabling acts and constitutions of States to fix the minimum price and not leave it to the legislature.

Governor CURRY. Of course that would be done very likely in our enabling act when we become a State, but our Territorial legislature has already placed the value at \$3. There would be no objection on our part to putting that into the bill, because that is the will of the people there anyway.

The CHAIRMAN. That limitation refers to the sale of lands?

Governor CURRY. Yes, sir.

The CHAIRMAN. This provision is not for a sale of lands, but a sale of timber.

Governor CURRY. Cutting of timber; yes, sir.

The CHAIRMAN. So that if we place any limitation here it would apply to timber and not to lands.



Mr. GRONNA. You do not seem to place any limitation on the number of acres of timber to be sold to any one firm or corporation?

Governor CURRY. No, sir.

Mr. GRONNA. Do you think that is wise, to wholesale the timber in that way?

Governor CURRY. Yes, sir; because our timber is so situated that no one would build a railroad in to get it unless they could purchase a larger acreage than 160 acres.

Mr. GRONNA. You were speaking a while ago about giving the new settlers cheap lumber. How would that benefit the settlers in the State, where the timber shall be taken out in large quantities?

Mr. SMITH, of California. By bringing the lumber into the country for use.

Governor CURRY. Yes; the sawmills distribute the lumber around in the little towns in the vicinity, putting it on the market.

Mr. SMITH, of California. And lumber is sold in your Territory at \$20 per thousand?

Governor CURRY. I think some classes are cheaper.

Mr. KELLEY. That is No. 1. The lower grades are a great deal less. Our red fir, which is close to the railroads, averages about \$10 to \$14 a thousand.

Mr. GRONNA. Dimension lumber is cheapest?

Mr. KELLEY. We have a lumber that is cheaper than that. We have what is called the box grade.

The CHAIRMAN. What is the average price of your native lumber, if you know, at the markets?

Mr. KELLEY. At the mill \$12, taking one mill with another.

Mr. GRONNA. You are a lumberman, are you?

Mr. KELLEY. Yes, sir.

Mr. GRONNA. What is the price of drop siding?

Mr. KELLEY. We have to ship drop siding in. We sell Texas drop siding. We sell No. 2 boards at \$16 and No. 1 at \$20.

Mr. BYRD. Does the price of Texas lumber fix the price of your lumber at home?

Mr. KELLEY. No; we only use the better grades of Texas lumber.

Mr. BYRD. Isn't it a fact that the foreign lumber does control the price of the grades that are shipped in?

Governor CURRY. They would control the price of that which is shipped in, but not that produced there.

Mr. KELLEY. We have no lumber to compete with the grades that are shipped in.

Mr. SMITH, of California. Can you ship lumber in, of the grades that you produce?

Mr. KELLEY. No; it would cost too much.

Mr. SMITH, of California. Every dollar added to the price of the stumpage would be added to the price of the lumber which you produce.

Mr. KELLEY. The price of lumber has gone up \$5 or \$6 on account of the forest reserves.

The CHAIRMAN. I live in a community where we secure lumber from privately owned lands, and we pay for our lumber at the mill \$12 a thousand. One hundred and fifty miles away there is a forest reserve with a vast amount of lumber in it. The Forestry Bureau has advanced the price of stumpage until the same lumber

sold from privately owned lands in my community is sold on the border of a forest reserve for \$5 a thousand more. As the gentleman from California has well said, whatever you add to the price of lumber in the stumpage you add to the settler making a start in a new country.

Mr. BYRD. Do you not think that the repeal of the forest-reserve laws would greatly enhance the settling of the West?

The CHAIRMAN. That is a very large and rather tender question. We all believe in the forest reserve, but we have some opinions with regard to their management.

Governor CURRY. The Territories have no Representatives here excepting the Delegates. We have to depend upon the National Congress to legislate for us and to approve of our legislation. The great battle that we have now is to educate the youth of to-day, and I think we will be amply able to take care of our educational institutions in the future. We are increasing not only in population but in wealth, and now is the time that we need help, and need it bad.

Mr. GRONNA. I have no objection to helping populate any new Territory or State, but I am afraid that anything of this kind which makes it possible for a large corporation to get possession of the timber land will work with you the same as it has worked in other Western States, that the timber will all be owned by them.

Mr. BYRD. My observation about that is this, that the competition in the lumber business will not permit any man to enter into it unless he can control a large amount of timber. That is the way it is in the southern part of my State. There it is all a timbered country, but all of the little sawmills have gone to the wall, and only those who can control a large amount of land and can buy the latest improved machinery can compete.

The CHAIRMAN. The Forestry Bureau, while I do not approve entirely of their operations with regard to lumbering, have evidently been of the opinion, so far as the national forests are concerned, that it is utterly impossible to develop a business excepting on a large scale. In your State, as well as in mine, they run all the way from a few small sales to as high as 70,000,000 feet. There have been several sales of 50,000,000 feet board measure to one company under the same conditions existing in your Territory, for the building of a railroad, and the putting in of a very large and expensive logging plant.

Now, Governor, I will again call your attention to section 2. Section 2 provides for the relinquishment and redelivery to the Territory of New Mexico of the title to certain lands in all of those cases where the Interior Department is of the opinion that the lands were not acquired in conformity with the spirit of the law; in other words, where they assume that the sale was to a dummy entryman. How much of an acreage would be affected by those cases?

Governor CURRY. Seventy-one thousand acres.

The CHAIRMAN. There are 71,000 acres which have been sold or disposed of ostensibly under a provision of law limiting each sale to 160 acres?

Governor CURRY. Yes, sir.

The CHAIRMAN. And the Department holds as to that entire 71,000 acres that the spirit of the law was violated in the matter of transfer, and provides in this section for their reconveyance to the Territory? Am I correct?

Governor CURRY. Yes, sir.

The CHAIRMAN. Then the acreage referred to in the proviso of the first section, where the timber alone has been sold, is something like 30,000?

Governor CURRY. Thirty-three thousand, I think.

The CHAIRMAN. Under the provisions of the bill the Territory of New Mexico would acquire approximately 70,000 acres of land in all cases where the title has passed?

Governor CURRY. Yes, sir.

The CHAIRMAN. Or where an effort has been made to secure it?

Governor CURRY. Yes; interested parties have all agreed to reconvey.

The CHAIRMAN. Now, the lands to be thus reconveyed are largely in forest reserves?

Governor CURRY. All in forest reserves; yes, sir.

Mr. BYRD. Has the timber been cut?

Governor CURRY. Part of it has been.

The CHAIRMAN. Those parties have paid \$3 an acre for it?

Governor CURRY. Yes, sir.

Mr. PARSONS. As I read this section 2 there are no restrictions imposed upon the cutting of the timber in the 70,000 acres?

Governor CURRY. We have drawn a contract here which has been approved by the Secretary of the Interior, that is, a form of contract which the Territorial officials will draw and which is satisfactory to all parties—and we have practically followed the forestry regulations.

Mr. PARSONS. But the section does not require any approval by the Secretary of the Interior, does it?

Governor CURRY. No, sir; and that was left out purposely, because for this purpose it is mandatory upon the part of the Territory to enter into these contracts with these people. For instance, if we make a contract they would reconvey the lands to the Territory, and then the contract would have to be approved by the Secretary of the Interior. Suppose the Secretary would refuse to approve, then they would be out both the lands and the money. The object was to make this mandatory on the Territorial officials to give them the contract for the cutting of the timber as soon as they reconveyed title to us.

Mr. PARSONS. But this section No. 2 does not reserve to the Territorial officials or the Department of the Interior any right of supervision of cutting, as I read it. Should it not?

Governor CURRY. It affirms our present contracts, and we have contracts with them similar to the contracts of the forestry people.

Mr. PARSONS. But this section 2 refers to lands which have been deeded, and does not refer to lands where timber cutting contracts have been made.

Governor CURRY. No.

Mr. PARSONS. As I read it, it provides that if they shall regrant the lands to the Territory, they shall have the right to cut the timber?

Governor CURRY. Yes, sir.

Mr. PARSONS. But under no right of supervision on the part of the Territory or the Department of the Interior?

The CHAIRMAN. All matured and large growth lands.

Governor CURRY. Yes; and we have entered into a contract with all of the interested parties.

The CHAIRMAN. Governor, is it a fact that it is by no means definitely determined that these parties could not, in many instances, hold their land?

Governor CURRY. No, sir; it has not been determined. The suits are now pending in the court.

The CHAIRMAN. Is there not some question as to whether these parties could not, in many instances, hold their lands?

Governor CURRY. I think it is a very serious question. Personally I believe they could hold them, but my opinion is not concurred in by the Department of Justice.

Mr. SMITH, of California. Do you say that there is a tacit understanding with these holders that they will reconvey to the Territory?

Governor CURRY. An absolute understanding with each and every one.

Mr. VOLSTEAD. By a written contract?

Governor CURRY. No; excepting when they recover title when this bill goes into effect.

The CHAIRMAN. Then under the provisions of the bill it would not be absolutely mandatory for these holders to reconvey?

Governor CURRY. No, sir.

The CHAIRMAN. But in that event you would proceed with the suits?

Governor CURRY. Yes, sir.

Mr. BYRD. What is the value of that timber land as land?

Governor CURRY. About a dollar and a quarter an acre.

Mr. SMITH, of California. And only suitable for grazing?

Governor CURRY. A very small part of it might be for agricultural purposes, but as a rule it would be only suitable for grazing.

Mr. SMITH, of California. Would it have to be irrigated?

Governor CURRY. No; it is in a high country, where they have sufficient rainfall.

Mr. PARSONS. Referring back to section 1. In the act of June 21, 1898, there was certain land granted to the Territory which could only be leased, and on which the timber could not be cut. That is so, is it not?

Governor CURRY. There were certain lands which only could be leased, but I do not think it provides that the timber could not be cut.

Mr. PARSONS. I think it does. It says, "It shall be unlawful to cut or appropriate in any way any timber growing upon the lands leased under the provisions of this act." Have you been handicapped by that provision; and do you intend to allow the timber to be cut on those sections and townships?

Governor CURRY. Under this act we could if we wanted to.

The CHAIRMAN. The lands referred to in section 2, are lands as to which the Territory had unquestioned right to make sale of in 160-acre tracts?

Governor CURRY. Yes, sir.

The CHAIRMAN. To sell the land and all that grew upon it; and the only question is as to whether those sales were made in accordance with the provisions of law, the Department holding, in many instances, that they were not. It is proposed to allow the parties to reconvey title, and allow them to cut matured timber?

Governor CURRY. Yes, sir.

The CHAIRMAN. Section 3 provides for the lieu selections?

Governor CURRY. It provides that the Territory may select further lands, because this being in the interior of an established forest reserve, the reserve people want to control it for the purpose of replanting it.

The CHAIRMAN. Section 3 provides that upon the reconveyance of these lands, if they are within an established forest reserve, they shall become part of the forest reserve, and the Territory of New Mexico shall be authorized and permitted to select in exchange therefor an equal number of acres from the surveyed, unappropriated, non-timbered, and nonmineral public lands of the United States in said Territory, the lands so selected to be held by the Territory in trust, as aforesaid, the same as the lands in lieu of which they may be selected. Under your general law, what limitations would there be as to the disposition of those lands so selected?

Governor CURRY. They would be subject to the same disposition as the original lands were.

The CHAIRMAN. Only disposed of in 160-acre tracts?

Governor CURRY. Yes.

Mr. CRAIG. At no fixed minimum price?

Governor CURRY. Three dollars an acre. The legislature has fixed that price. We only sell 160-acre tracts at less than \$3 per acre.

Mr. CRAIG. And the land that has been cut over is to go back into the forest reserve, and the Territory would have no further interest in it?

Governor CURRY. No, sir. We think we could select lieu lands that would be more valuable to the Territory.

The CHAIRMAN. No doubt you might be able to select lands that the settler would be able to use?

Governor CURRY. Yes; we have lands of that character in view.

Mr. CRAIG. Referring to section 2, do you not think it would be well to get all of these parties to give a written agreement in accordance with the purposes of this bill to reconvey their title, because under this section the man who has a good case can hold out against the Territory and not convey anything. I understood that there are no written agreements to that effect.

Governor CURRY. There are not any written agreements, but we felt that it was unjust, by legislation, to force anyone to accept contracts that they may not want to accept, although we have all agreed to this. We thought it would not be advisable to put in a bill something that would compel the men to accept the terms.

Mr. CRAIG. You want to put everybody on the same footing.

The CHAIRMAN. I think it is entirely probable that there would here and there be a case of a man who has actually acquired 160 acres of land in good faith, and possibly in living upon it, and who has a clear title to it. We could not, by legislation, divest such a man of his title.

Mr. CRAIG. Not by legislation, but the question asked by the gentleman from California a while ago struck me as being pertinent, as to whether there was any agreement with these parties that this land would be reconveyed. The gist of the opinion here seems to be that everybody has agreed to it, although there is nothing in writing to that effect. It seems to me that some agreement could be drawn up that would bind these parties in case this bill passes.

Governor CURRY. We have all of the interested parties present here now.

Mr. CRAIG. I did not mean to put it into the bill.

The CHAIRMAN. The big stick of the Department of Justice hangs over them.

Mr. CRAIG. I understand that, but they can continue the litigation under this bill after it passes.

Governor CURRY. And that is just what they want to prevent. They want, if this bill passes, to resume the cutting of timber and the sawing of logs at once.

Mr. CRAIG. I thought the object of this act was to get all of this land back into the hands of the Territory.

Governor CURRY. That is our object, and I think we will get it.

Mr. CRAIG. I wanted to find out if you will get it under this act. I think that the act leaves it so that anybody can hold out and probably retain their land and recover in the courts, and only those who have bad cases would come in and reconvey.

Governor CURRY. We have had all of the interested parties in conference with the Secretary of the Interior and the Department of Justice, and we have agreed that it is not best to put it in the bill; in fact, the Department of Justice thought it would not be binding. If any of them thought they would have a good case, and wanted to continue the suit, they would not gain anything.

Mr. CRAIG. The question in my mind was whether the Territory would gain anything. I ask this question because I gather from the governor that the object of this bill is to settle all disagreements, and I wanted to find out whether they are all going to be settled by the passage of the bill.

Governor CURRY. Everybody has agreed to it.

Mr. KELLY. Yes; and the governor can guarantee you and all the rest that the Territory will get every acre of it.

Governor CURRY. I am satisfied of that.

Mr. HALL. There is one other question arises in connection with section 2. There is no provision there which would authorize the supervision of this cutting by anybody. Do you not think there ought to be such a provision?

Governor CURRY. We intended, before the suits instituted by the Department of Justice, to let the commissioner of public lands of the Territory enter into the contract.

Mr. HALL. But that leaves something undone, and still in the air. It leaves it in the control of either the forestry department or your commissioner of public lands; and even going to the extent of making a specific provision as to what would be the minimum size of the timber that might be cut, the purpose being to preserve the forests?

Governor CURRY. Of course, the commissioner of public lands and the Territorial officials will do everything they can to protect the

interests of the Territory, but we did not want to make the bill too cumbersome.

Mr. HALL. But there is no absolute authority for the commissioner. They could snap their fingers at the commissioner. If you will read section 2 you will observe that there is absolutely no reservation of authority on the part of the commissioner of public lands or anybody else to prescribe conditions or supervise the method of cutting.

Governor CURRY. There would be no objection to inserting in there that the contract could be entered into between the commissioner—

Mr. BURSAM. If the contract contains conditions, that would make it binding.

Governor CURRY. There is no provision about the contract.

Mr. BURSAM. But there is a condition.

Mr. CRAIG. It does not say that he shall supervise.

Mr. PARSONS. And it does not say that he shall insert any conditions. It simply says that he shall grant the right to cut.

Mr. BURSAM. To cut what—the large and matured timber?

The CHAIRMAN. If you will permit me to make a suggestion, it seems to me that the suggestion of the gentleman from South Dakota might be carried out by inserting after the word "remove" the words "under his supervision."

Mr. HALL. Yes; so as to place the supervising power somewhere.

Governor CURRY. I think that would be well to put that in, so as to put it under the supervision of the commissioner of public lands.

Mr. HALL. This would leave what is matured and large timber a matter of speculation.

Mr. BURSAM. Not at all, for that is set out by the legislative act of the Territory. We have a law there that 8 inches is the minimum. It defines what constitutes large timber.

Governor CURRY. But there would be no objection to putting that language in.

Mr. BURSAM. Not at all; but it is that way now.

Mr. HALL. But past legislation would not apply to this.

Governor CURRY. This act of Congress would repeal previous legislation, and any Territorial laws in conflict with it, Mr. Bursam.

Mr. GRONNA. I think you endanger your bill unless you allow something of that kind.

Governor CURRY. I think so. I think it would be well to insert it.

Mr. REYNOLDS. I would like to make an inquiry as to such lands, as become a part of the national forest reserve. What is the meaning of the clause: "Subject, however, to all rights granted by the commissioner of public lands of the Territory of New Mexico to cut the timber thereon under either of the foregoing sections?"

The CHAIRMAN. The lands become part of the national forest reserve, but the right to remove the timber that has been granted still remains.

Mr. SMITH, of California. When we contract with him, it then becomes entirely forest-reserve lands.

Governor CURRY. We will probably select lieu lands, and that will go to the forest reserves before the timber is cut off. The same rules and regulations that were drawn by the commissioner of public lands would apply to the removal of the timber.

The CHAIRMAN. So that, under this legislation, the forest-reserve regulations might extend over this area.

Governor CURRY. Yes; as soon as we have selected the lieu lands.

The CHAIRMAN. I think they would before, so far as control is concerned.

Governor CURRY. We have a bill before the committee allowing the Territory of New Mexico to select its lieu lands. Under an act passed several years ago, the Territories were left out, by some error, affecting the school sections that are in the land grants of our Territories, sections 16 and 36. The States and Territories, under an act passed sometime ago, are allowed to select lieu lands for the public school lands, and under the wording of the act the Secretary of the Interior has held that we can only select in the vicinity of the lands, and there is no public land there suitable. We have a bill drawn by Mr. Holcombe, a representative of the Department of the Interior, which, if it becomes a law, will allow the Territory of New Mexico to select lieu lands, in place of that which is now in the land grants, out of any unappropriated public domain of the Territory of New Mexico.

The CHAIRMAN. What is the number of the bill to which you now refer?

Governor CURRY. Fifteen thousand eight hundred and fifty. We have a favorable report from the Secretary of the Interior. It is a very short bill, and when you get through with this if you will take it up we will appreciate it very much.

#### STATEMENT OF MR. E. W. DOBSON.

Mr. DOBSON. Mr. Chairman and gentlemen of the committee, this matter has been discussed quite freely on different occasions, rather disconnectedly, and probably the principal points have been answered; but there are one or two things, it seems to me, that will not be very clear in the minds of some of the committee, which I would like to refer to, and I will do so as briefly as possible.

In the first place, the object in granting this land by the act of 1898 was to aid the Territory of New Mexico in starting and maintaining public institutions. We could not obtain statehood, so we could get our land and have a right to use it for these institutions, so they passed an act in 1898 for the purpose of letting us start in with our institutions, and by the time we became a State they would be growing along. In passing the act a great many things were omitted for the purpose of getting relief, among them the right to sell these timber lands to give us aid at once.

As is provided in every State, certain sections of land, 16 and 36, were granted for university purposes. Under the law those lands could only be leased; no timber could be sold or cut. There was also selected under that act, for the university, about 65,000 acres of timber land; and there was also selected for the agricultural college, the miners' institute, and the different public institutions we have, other lands. The Territorial officials and the university officials asked the Territorial government to sell lands to assist the university. They needed the money for betterments and improvements; they had no funds, and there was no means of getting any land from sections 16 and 36.



Now, the American Lumber Company is, or was, the owner of a large body of land consisting of odd sections, part of the railroad grant to the Atlantic and Pacific Railroad, and afterwards acquired. The Commissioner of Public Lands selected the even sections in their timber tract when the Atlantic and Pacific constructed their railroad twenty-odd miles into their timber, and the Commissioner and the board of regents of the university wanted to raise money for the purpose of fostering institutions and making betterments, and they solicited the American Lumber Company to buy the timber from these lands. They entered into contracts that are referred to in this bill, after full consideration, with the Commissioner of Public Lands and the board of regents of the university, and it was considered by the board, after careful investigation by conservative men who wished to conserve the interests of the Territory and the institutions, that the American Lumber Company could pay more for those lands than any other person on account of having constructed at an expense of a quarter of a million dollars, through the mountains, a railroad to get to their own lands. So they went into this contract on the basis of \$2.50 an acre.

The CHAIRMAN. That is, you want us to understand that the American Lumber Company was the owner of the odd sections?

Mr. DOBSON. Yes; consisting of probably a couple of hundred thousand acres. As they constructed their road they would have to pass every even section belonging to the United States, and they solicited for a purchase of the timber.

Mr. PARSONS. Were any of those sections intended for university purposes or public schools?

Mr. DOBSON. No; they were a part of the selection that was made under the other provision of the act. None of the land included in those tracts was either two townships or sections 16 or 36.

They entered into the two contracts for the cutting of the timber at the rate of \$2.50 per acre, and everything, so far as the officials of the American Lumber Company or the officials of the Territory or the officers or beneficiaries—the regents of the university—were concerned, was fully satisfied. They were satisfied that everything was aboveboard, and that they were getting full value for their lands.

Now, as to the provision of the act which limited the sale to an individual of 160 acres of land, as has been stated by some gentleman present, no man can go to work and buy 160 acres of land and undertake to start a mill for manufacturing lumber. That would be impossible, especially in our western country, where a majority of this timber is matured in the mountains. It costs from 50 to 60 per cent more in New Mexico to get out the timber than it does in the South or in the Northern States, on account of the mountainous condition and on account of the difficulty of the railroads in getting in there. Our Territory is not intersected by railroads. This American Lumber Company had spent between three and four hundred thousand dollars in constructing a railroad before it could get a foot of lumber to the manufactory.

And then the act provides that you can not sell more than 160 acres to an individual. The different companies or associations who wanted to acquire lands procured men to make applications to purchase 160 acres of land. They furnished bona fide persons, and they made applications to purchase from the Territory 160 acres of land.

They had a price of \$3 per acre under the act. They made no oath or affirmation of any kind or character as to what they intended to do with it: and, as a matter of fact, I presume it was tacitly understood by the public and the Territorial officials that it was their intention that they were going to combine together and form a company so that they could manufacture lumber and justify them in putting up a mill, as they could not do anything in 160-acre tracts. And they probably did understand it. But even if that be true, was the act of Congress violated? Our legislature, as the act provides for carrying out the provisions thereof, provided that the matured full-grown timber might be sold. Acting under the authority of our Territorial legislature, the commissioner of public lands and the governor, who is a member of the board, had a right to make those contracts for the sale of that land.

And then, on the 160-acre proposition, we are contending that nobody has violated the act of Congress. They have not sold to any individual more than 160 acres of land; but nevertheless, as the Governor has stated, suits have been brought by the Secretary of the Interior to cancel these contracts entered into for the sale of the timber alone, and also upon the ground that the Territorial legislature had no authority to make such a provision. Suits have been instituted to cancel and set aside the deeds that are granted to these individuals for 160-acre tracts, upon the ground that that was in spirit a violation of the act of Congress and an attempt to evade the law, and that the American Labor Company have several thousand acres of land when they should have only 160 acres; that the defendants who had acquired the title from these individuals have violated the spirit of the law.

MR. PARSONS. Did the individual purchasers of the 160-acre tracts, any of them, form a corporation themselves?

MR. DOBSON. No, sir.

MR. PARSONS. They sold to the corporation?

MR. DOBSON. They transferred to different corporations.

MR. HOWLAND. Did they furnish the purchase price?

MR. DOBSON. Some did and some did not, but they furnished a purchaser for every 160 acres of land, and no individual was granted more than 160 acres. What they did with that 160 acres is the question, whether they would have to go to the Commissioner and say: "I am going to convey my land to the American Lumber Company for speculative purposes," or "I am going to build a home on it," but they made no oath or affirmation—

MR. HOWLAND. There was no regulation of the Department touching the matter?

MR. DOBSON. None whatever. It was just a plain blank, "I hereby make application to purchase the following tract of land, for which I agree to pay the sum of \$3 per acre."

MR. BYRD. Is it proposed, in connection with these suits to pay back the purchase money?

MR. DOBSON. No, sir.

Now, I represent three defendants, one the American Lumber Company, who has contracted for the purchase of timber; also in regard to the suits brought to cancel these deeds for the 160-acre tracts, but I am not here to discuss legal propositions in this matter. I am here for the purpose of trying to get together and stop losses. I have

never said—on the contrary I have taken the opposite position—that I believed any court can turn our contracts down or cancel them, either for the purchase of the timber, or so far as the cancellation of the deeds for the sale of the 160-acre tracts is concerned. That is my legal opinion. Of course I am prejudiced; I am on one side of the case, and the Attorney-General probably thinks differently. But that is neither here nor there. I am here to say that I believe it is in the interest of New Mexico, and in the interest of these institutions, that these matters be adjusted and settled now, and not four or five years hence after a long fight in the courts. New Mexico and its institutions need relief at once. The lumber companies are under injunction and at great expense, pending action by you in the way of legislation. That means an additional cost of 50 cents per acre, and I do not believe that is right nor justified. I am willing to meet half way, and to accept some burdens to that extent in order to get these matters adjusted, and we have agreed to do that.

The CHAIRMAN. I want to understand clearly. Did the law providing for the sale of this land by the Territory contain any provision of settlement or qualification as to the right of the purchaser under which he was required to make affidavit that it was for his own use and benefit?

Mr. DOBSON. Absolutely none.

The CHAIRMAN. Did he at any time or anywhere take an oath or make an affirmation that it was for his own use and benefit?

Mr. DOBSON. He did not. As I have just stated, it is a printed blank containing about ten printed lines, and maybe half a dozen blank statements, to be filled in with the description and the price he is willing to pay. It is not sworn to, nor is there any affirmation of any kind.

Mr. BYRD. Would this land have been of any personal benefit to the purchaser had he kept it, and could he have gotten any practical benefit out of it?

Mr. DOBSON. In answer to that question I will state that so far as the majority of persons who have acquired timber lands in large bodies are concerned—that is, the individuals who purchased it—their object was more for the benefit to be derived in cutting timber than the real uses of the land.

Mr. BYRD. Suppose the individual had held it in his own name, could he have gotten any profit out of it?

Mr. DOBSON. In the natural increase of valuation of timber, he might; but the individual to have undertaken to have cut the timber, manufacture, or cut it and keep it—he could not have done it under present conditions.

Mr. BYRD. What would have been the effect had he just sold the timber instead of the land to the corporation? Would there have been any violation of the spirit of the law then?

Mr. DOBSON. I do not think so. That is what they did do in a few instances.

Mr. BYRD. Has that question also been raised by the Government?

Mr. DOBSON. Yes, sir.

Mr. BYRD. As I understand it, in two instances they bought the title and transferred the timber to two corporations, and the Government is now trying to cancel both of those?

Mr. DOBSON. Yes, sir.

Mr. PARSONS. In cases where they bought the timber, who did they buy it from?

Mr. DOBSON. From the commissioner of public lands, or the board of public lands, consisting of the attorney-general, the commissioner of public lands, and the governor.

Mr. PARSONS. What do your clients understand "matured and large growth timber" to mean?

Mr. DOBSON. The Territorial act fixes the size at 8 inches above the ground.

Mr. PARSONS. That is what is meant in this act?

Mr. DOBSON. In the contracts with the Territorial board entered into with the lumber company, the two contracts, the provision is contained right in the contracts.

Mr. CRAIG. Was there any penalty fixed for cutting smaller timber?

Mr. DOBSON. There is a separate statute that we have, providing a penalty for the violation of cutting timber off of those lands.

Mr. HAMILTON. As I understand it, the individual who bought the 160-acre tracts sold both the title and the timber to the company?

Mr. DOBSON. Yes, sir; and this act provides that these companies shall turn back the title of the land to the Territory.

Mr. PARSONS. That is, just to the present matured and large-growth timber. It does not give any rights in the future?

Mr. DOBSON. No, sir; that was discussed. It only means one cutting.

Mr. PARSONS. Will your clients all accept the provisions of this act?

Mr. DOBSON. Yes, sir. The institutions of New Mexico need assistance, and long litigation necessarily confronts us, because this is bound to go to the Supreme Court of the United States, and that means several years' injunctions against us. We would rather submit to the payment of money that we do not owe and ought not to pay; we prefer to do that and settle this matter, to adjust it.

The University of New Mexico is receiving the benefits of those two contracts made with the American Lumber Company. It was in a dilapidated condition, and when these contracts were entered into it borrowed about \$25,000 for the purpose of adding dormitories and betterments to the institution, paying the money back out of the revenues that they derived from the sale of timber under these contracts and whatever help they could get.

Mr. PARSONS. Do your clients object to the provisions suggested by Mr. Hall, that the cutting should be under the supervision of the Territorial commissioner of public lands?

Mr. DOBSON. No, sir; that is the case already. Our Territorial act puts it that way.

The CHAIRMAN. Mr. Dobson, who, if anyone, is now paying taxes upon the land that has been sold?

Mr. DOBSON. The American Lumber Company is paying taxes upon lands the title of which is vested in it, and I presume other corporations are. The purchasers who own the title are all taxed.

The CHAIRMAN. How long ago were the first sales made?

Mr. DOBSON. In 1899.

The CHAIRMAN. Those sales have occurred from time to time since 1899 down to when?

Mr. DOBSON. Down to 1905.

The CHAIRMAN. Have patents issued on these lands?

Mr. DOBSON. It is not necessary, under the act of Congress, for any patents to issue. The public officials, the commissioner of public lands, and the governor execute these deeds.

The CHAIRMAN. The deeds from the Territory, then, have passed to the purchasers?

Mr. DOBSON. Yes, sir.

The CHAIRMAN. In all such cases the present holder of the land, the present claimant of the land, must necessarily be paying the taxes?

Mr. DOBSON. Yes; they are.

The CHAIRMAN. At what rate have these lands been generally assessed: about what have the taxes been?

Mr. DOBSON. The American Lumber Company are returning the property that they acquired from the Territory—that is, the 160-acre tracts—at the same value that they are returning their other property for, 75 cents to \$1 an acre.

The CHAIRMAN. Do you know what the Territorial levy on that would be?

Mr. DOBSON. It would be about \$3.60 in the county of Valencia, where the majority of these lands are located.

The CHAIRMAN. That is 3.60 per cent.

Governor CURRY. A part of that land, the principal part of it, has been assessed at \$3.50 per acre.

The CHAIRMAN. Do you say that some of these lands have been assessed as high as \$3.50?

Governor CURRY. The majority have been assessed at \$3 to \$3.50. Of course that was the land close to the railroad. The Alamogordo Lumber Company has 30,000 acres of this land, and it has been assessed at \$3.50. The Pennsylvania Development Company is assessed at \$3 an acre.

The CHAIRMAN. That would be a tax of approximately \$16 per quarter section.

Governor CURRY. Very near that.

Mr. DOBSON. Mr. Chairman, I want to call attention to one fact. Mr. Hawkins, the representative of the Alamogordo Lumber Association, has been in the city for the past week. He remarked to me that he would be here if he could. I want to call the committee's attention to the fact that his company was the first one that was solicited to buy any of these Territorial lands. At the time they were solicited to buy them by the land board they were scripping lands that belonged to the Government of the United States, costing them about \$2.85. The Territorial board, wanting to raise money for these institutions, solicited those people to come to them and buy Territorial lands, instead of buying the scrip and placing it on the other lands. They wanted the money for the institutions. I want to say that they went and paid \$3 an acre for the Territorial lands, being 15 cents an acre more than they paid for the scrip lands, which was \$2.85 at that time.

**STATEMENT OF MR. H. W. KELLY, OF LAS VEGAS, TERRITORY OF NEW MEXICO.**

Mr. KELLY. Mr. Chairman and gentlemen, as the other gentlemen have explained, this land was granted to us for our different Territorial institutions. We felt pretty good over that. That was a great big land grant, that we had; so we had to comply with the wishes of our people and create these different institutions around the country. The first thing we knew we had the institutions on our hands without any revenue, and we had to devise some way in which to dispose of these lands in order to pay this trust. We had created these institutions, and we had no revenue. That is the reason we sold what lands we have sold. We could have leased them; but a great many of them were very remote, away up in the mountains, and it would take a lot of money and labor and expense to get a road to them so that we could bring the timber to the market.

Moreover, there are a great many new counties created. I own 16,000 acres of land in the county of Torrance. We return our land there at \$3 an acre, and pay 6 per cent taxes, so we have not got a very soft thing; but it is a new county, and we have to do something to help the county. We hope that we are not always going to have to do it. Settlers are coming in now. Of course, I am just showing you my cost on the land. I did not buy the land for speculative purposes. I bought it to keep our industries going. I have not cut over 1,200 acres of timber off. I can not afford to cut it and throw it on the market, if all I get is \$10 a thousand for it. Lumber in the South is going for \$5 and \$8, because a great many tracts have to be cut there. We do not want to push it on the market. We cut it out as the demand comes. We have an immense immigration coming in there now. We are supplying them with lumber, and we want to keep it at a uniform price. We do not want to have lumber selling at \$20 and then put it down to \$10 and then up to \$20 again. You dissatisfy more people by putting the prices up and down than you do by keeping a uniform price.

We sell our lumber for \$12 at the mill. It is quite expensive hauling lumber to the railroad by our freighters. We pay all the way from \$2 to \$5 a thousand for wagon freight; so that after we get through, we are not making a fortune out of the lumber business. We are not any of us barons, and we have not many millionaires among us.

Mr. HALL. I understand that sections 16 and 36 are granted for university purposes. What provision, if any, is made for common schools?

Mr. KELLY. Those are common-school lands.

Mr. HALL. Oh, I misunderstood the statement that was made before.

Mr. KELLY. There is another thing that I would like to say, just to enlighten some of our friends here who do not understand our western lodge-pole pine. There is no part of the United States where our pine and spruce trees reseed themselves as they do in the Rocky Mountains. In the first place, this timber grows in great big canyons. On the south side of the canyon the spruce grows, because the snow lies there longer than it does on the north side. The yellow pine—the lodge-pole pine as we call it—we would like to call it white

pine, but we can not—you find on the north side and the spruce on the south side. These trees reseed themselves after the old trees are cut off. That land is not good for recultivation, except in little patches where the loam that is washed down from the mountains is found; but the trees reseed themselves on this soil remarkably fast, and there is a new growth of timber after the old growth is cut off. That is what helps our watersheds; that is what preserves the moisture. It is not the great big tall tree that the snow and wind sweep under that preserves it. It is the low tree that can hold the moisture. It conserves the snow. It stays there longer.

Another item is this. I do not know, I am not a forester, but I think a tree is just like an apple—when it has matured it should be cut and utilized for commercial purposes; and when an apple is ripe it should be picked and eaten.

Our depreciation is going on every day the same as the creation in our forests. If you go through our forests there you will find that the old trees are commencing to die. The beetles or bugs get after them, and it is not long before they go to pieces; whereas if they were cut and utilized everyone would get some benefit from them.

The CHAIRMAN. Is there anything further? Would any member of the committee like to ask further questions?

Now, if there is nothing further with regard to this bill, is the committee prepared to hear the governor briefly in regard to the lieu-selection bill that he referred to? I understand that these gentlemen are anxious to get back home, and they are much interested in these two measures.

Mr. GRONNA. I would like to hear him.

The committee thereupon proceeded to the consideration of the bill (H. R. 9205) To make the provisions of an act of Congress approved February 28, 1891 (26 Stat. L., p. 796), applicable to the Territory of New Mexico.

The CHAIRMAN. If the members of the committee will give me their attention for just a moment I will read this letter from the Secretary:

DEPARTMENT OF THE INTERIOR,  
Washington, D. C., February 8, 1908.

SIR: I have the honor to acknowledge the receipt of your letter of February 7, 1908, inclosing a copy of H. R. 9205, Sixtieth Congress, first session, which proposes to extend to the Territory of New Mexico, the provisions of the act of February 28, 1891 (26 Stat. L., 796), relative to the grant of land for common schools, and the method of procuring indemnity therefor. The committee desires an expression of opinion in regard to the bill, as well as a statement as to its effect.

I have the honor to advise you that while the act of February 28, 1891 (*supra*), is general in its nature, being in terms an amendment of section 2275 of the Revised Statutes, it is not clearly applicable to the Territory of New Mexico, owing to the fact that the common-school grant to the Territory was not made until June 21, 1898, and the act of that date (30 Stat. L., 484) contained no provision making the act of 1891 applicable to the grant to the Territory. Hence all the facilities of adjustment afforded by the general law to all the States have not been extended to New Mexico.

The effect of the proposed legislation would be to place the Territory of New Mexico on an equality with the States in the matter of selecting indemnity for sections 16 and 36, when she has lost the same in place by reason of the fact that other disposition was made of such sections prior to the vesting of title in the Territory.

I see no reason for withholding from New Mexico the privileges granted the public-land States generally by the act of 1891, and would, therefore, recommend the enactment of the proposed legislation.

Very respectfully,

(Signed)

JAMES RUDOLPH GARFIELD,

*Secretary.*

Hon. F. W. MONDELL,

*Chairman Committee on Public Lands,*

*House of Representatives.*

# STATEMENT OF HON. GEORGE CURRY, GOVERNOR OF THE TERRITORY OF NEW MEXICO.

Governor CURRY. Mr. Chairman and gentlemen, this bill simply allows us to select land where our school sections are in land grants that were settled on prior to the survey of the land. This simply gives us what every other State and Territory of the Union has had. The original bill allowed us to select it, but it must be selected, according to the ruling of the Department of the Interior, in the immediate vicinity of the grants; and as there are no public lands there we never could avail ourselves of that opportunity. This allows us to select it at any place in the Territory of New Mexico from unappropriated public domain. It is of great importance to our Territory, and to our public schools; and I think the passage of the act would do as much or more to help the Territory than any one piece of legislation that we have introduced in any of the recent sessions.

Mr. Holcombe, representing the Interior Department, who is present with you and who will remain with the committee after we leave, drew this bill. He has looked up the sections of the law very carefully, and the bill gives us just what we want—the right to select these lands at any place in the Territory of New Mexico.

Mr. HOWLAND. Which bill is this?

Mr. HAMILTON. No. 9205 is the bill.

Mr. BYRD. You would like to have that at once, would you not?

Governor CURRY. Yes; we would like to have it as soon as possible. Otherwise it would be of no benefit.

The CHAIRMAN. The bill grants you the authority that is now given to the States to make your lieu selections anywhere within the Territory?

Governor CURRY. Yes, sir.

The CHAIRMAN. And under the present rulings of the Department you are confined to lands in the immediate vicinity of the lands which you have lost?

Governor CURRY. Yes, sir.

The CHAIRMAN. In each instance?

Governor CURRY. Yes, sir.

Mr. BYRD. I move that the bill be reported.

Mr. HALL. I second the motion.

Mr. VOLSTEAD. Here is one bill granting this privilege to New Mexico and Arizona, and another bill granting it to New Mexico only.

Mr. HAMILTON. No. 9205, Mr. Chairman, is the bill.

Governor CURRY. This is a bill that was introduced and at first reported to the Committee on Agriculture by mistake. It was subsequently referred to this committee.



The CHAIRMAN. Mr. Andrews seems to have reintroduced his bill, including the Territory of Arizona in its provisions.

Governor CURRY. I should think that if Arizona is in the same condition we are—and it probably is—the bill ought to be made to apply to it.

Mr. HOLCOMBE. Arizona has no lands for school purposes.

The CHAIRMAN. Has not Arizona a grant of sections 16 and 36?

Mr. HOLCOMBE. They are reserved for the future State, but they have not been granted to them.

The CHAIRMAN. Is the committee prepared to pass on this matter at this time?

Mr. SMITH, of California. This act with reference to the Territory of New Mexico says, referring to the act of Congress approved February 28, 1891, that "the grant of school lands to said Territory, and indemnity therefor, shall be administered and adjusted in accordance with the provisions of said act, anything in the act of Congress approved June 21, 1898, making certain grants of land to the Territory of New Mexico, and for other purposes, to the contrary notwithstanding." What does that refer to?

The CHAIRMAN. The later act is the act granting the lands which the Department, as I understand it, has construed as compelling them to select lands in the vicinity of the lands lost.

#### **STATEMENT OF MR. JOHN W. HOLCOMBE, DEPARTMENT OF THE INTERIOR.**

The CHAIRMAN. Mr. Holcombe, will you kindly explain briefly to the committee the effect of the legislation?

Mr. HOLCOMBE. Mr. Chairman, the act of June 21, 1898, which makes the grant of lands to the Territory of New Mexico, grants sections 16 and 36 in every township of the Territory of New Mexico, and where some have been lost by reason of settlement prior to the survey, or included in Indian, military, or other reservations, other lands equivalent thereto are to be selected as contiguous as may be to the lands which are lost.

The act of February 28, 1891, passed prior to the land-grant act of the Territory, which is general in its scope and applies to all States and Territories which have grants of lands, provides that school lands that have been lost prior to the time of the vesting of title shall be selected anywhere within the Territory or State where the loss occurs.

The purpose of the bill is merely to put the Territory of New Mexico upon the same footing as all other States which have received land grants—that is, to permit them to select indemnity lands for sections 16 and 36 that have been lost anywhere within the Territory, and not to confine them to unappropriated lands contiguous to those lands which have been lost. In the Territory of New Mexico it is impracticable to select lands in that manner, for the reason that the Spanish land grants there cover large areas, and a section 16 may be in the center of a Spanish grant. It is impracticable to select lands contiguous to the lands that were lost. Therefore, unless they are given the privilege of selecting their indemnity elsewhere in the Territory, the grant to that extent is defeated. The purpose of this bill is to give them that privilege. It is an act similar in all respects to one

that was passed several years ago for the relief of the State of Utah. The grant to New Mexico, I think, was patterned after the enabling act of the State of Utah, which confined them in the selection of indemnity lands to lands contiguous to the lands lost. There was a subsequent act passed to permit the State of Utah to select the indemnity lands anywhere within the State, and this bill is patterned after that recent act.

Mr. SMITH, of California. I do not see anything in the act of 1891 regarding the selection of contiguous lands.

Mr. HOLCOMBE. That is the law which they want to make applicable.

Mr. SMITH, of California. That refers to all States and Territories, does it not?

Mr. HOLCOMBE. Yes; but the act of 1898 is subsequent to that act, and is a special act limiting the Territory to the contiguous lands.

The CHAIRMAN. What objection would there be to a very simple provision to the effect that the Territory of New Mexico may select its lieu lands anywhere within the Territory, without reference to this section 2275 and section 2276, which relate to a number of matters?

Mr. HOLCOMBE. Sections 2275 and 2276 are contained in an act which was passed for the purpose of putting all the States and Territories upon the same footing, so that there would be a uniform administration of the land laws of those States in regard to the grants. If this act is made applicable to the Territory, there is one thing it would get that it does not now get. It protects the settler upon unsurveyed land. There is a question which has not been finally decided as to whether the grant to the Territory of New Mexico does protect the settler who goes upon the unsurveyed lands.

Mr. SMITH, of California. What is the objection to selecting the lands as near to the lands that have been lost as possible?

Mr. HOLCOMBE. The objection is simply that you then confine the Territory to selecting lands that might be absolutely worthless to them.

Mr. SMITH, of California. I mean on the presumption that what you lost was absolutely worthless. That is the assumption. It would seem to me that lands in the same vicinity would be of the same character.

Mr. HOLCOMBE. That is too remote. That was long ago departed from by Congress, when it passed the act of 1891.

Mr. SMITH, of California. How do we come to get back on to this land in this act?

Mr. HOLCOMBE. Through the administration of the Land Department. They did not know what "contiguous" meant, and thought that it required them to be taken in—

Mr. SMITH, of California. Did it not stop with the act of 1898 at all? That seems to place a limitation upon the act of 1891.

Mr. HOLCOMBE. That was for the benefit of the Territory; to give them the benefit of the grant before the Territory was admitted as a State.

Mr. SMITH, of California. The act of 1891, you think, did not apply to New Mexico at all?

Mr. HOLCOMBE. It did not apply to New Mexico until the passage of the act of 1898.

Mr. SMITH, of California. Why was the act of 1898 passed?

Mr. HOLCOMBE. To give the Territory the benefit of its lands that had been granted.

Mr. SMITH, of California. Did not the act of 1891 give it that?

Mr. HOLCOMBE. No, sir.

Mr. SMITH, of California. It seems to apply to all States and Territories.

Mr. HOLCOMBE. Yes; as to reservations for the Territories, but it does not give the beneficial use of the land. It reserves it for the future State.

Mr. SMITH, of California. But why was the lieu-land selection provision in the act of 1891 changed in 1898?

Mr. HOLCOMBE. Because I believe the gentleman that drew the act of 1898 followed the language of the enabling act of Utah, and put in the word "contiguous" there because it happened to be in the other act.

The CHAIRMAN. The enabling act of my State had the same provision in it that this New Mexico act had, and that was amended by the act of 1891 which enabled us to select our lands anywhere in the State. It is a very important provision, because at times it is utterly impossible to secure any land near the land relinquished.

Mr. GRONNA. What about the Territory of Arizona?

Mr. HOLCOMBE. I do not think that should be included in this, because they have no land grants for school purposes. They have a reservation of sections 16 and 36 for the future State, and under the act of 1896 they may lease those lands, but they have no great—

The CHAIRMAN. They have no right of selection in lieu of the lands they may have lost?

Mr. HOLCOMBE. They come under the act of 1891; yes, sir. If any lands that have been granted to them for school purposes have been included in any military, Indian, or other reservation, they may come in and hold other lands.

The CHAIRMAN. Arizona is already under the act of 1891?

Mr. HOLCOMBE. Yes, sir.

The CHAIRMAN. And so it would be entirely superfluous to include Arizona?

Mr. HOLCOMBE. Yes, sir.

Mr. HOWLAND. You made reference to the Spanish land grants a little while ago. What did you mean by that?

Mr. HOLCOMBE. In the Territory of New Mexico large grants are held under the Spanish title—not public lands of the United States, but lands on which are located sections 16 and 36 or on which they would be located if surveys were extended over them.

Mr. HOWLAND. Held by whom; by the Territory?

Mr. HOLCOMBE. No, sir; held by private individuals to whom the title has passed.

Mr. HALL. So that it would be impossible to select contiguous land there?

Mr. HOLCOMBE. Yes.

Mr. HOWLAND. Does the act of 1891 cover such a case as that?

Mr. HOLCOMBE. Yes, sir.

The CHAIRMAN. Would it not be impossible, in most cases, to select any contiguous lands in lieu of lands within forest reserves?

Mr. HOLCOMBE. You could not select lands that would be contiguous.

The CHAIRMAN. Well, either contiguous or in the locality?

Mr. HOLCOMBE. Yes. Well, it all depends on the forest reserve and where the sections 13 or 36 might be located.

The CHAIRMAN. If you have a forest reserve containing a great many miles, a section 36 might be lost in the center of it, and you could not very well select land in the vicinity; and it might be held, in that case, that it would be necessary to select a tract of land on the immediate border of the forest reserve.

Mr. HOLCOMBE. That is what it would necessitate.

Governor C'URRY. And in many cases that land is useless.

The CHAIRMAN. In any event, it raises the question in each section of the State whether the selection was made at the nearest point where land could be found adjacent to the land that was lost.

Governor C'URRY. Yes, sir. It is to avoid that that we ask the passage of this bill. This will allow us to select land anywhere in the Territory. We have a large amount of public land in the eastern part of our Territory, adjoining the State of Texas, which is all agricultural land and which is being settled on very rapidly. If we could select land in that section of the Territory we could lease it until we became a State, after which there would be no trouble in disposing of the land at \$8 or \$10 or \$12 an acre. Texas, right over the border from us, sells her land on thirty-year payments. I think they make thirty 50-cent payments, 50 cents annually, amounting to \$15. I think our land would, within a few years, be worth the same. The passage of this bill at this time would be one of the most valuable services that could be rendered the Territory.

Mr. VOLSTEAD. How much land could be selected?

Governor C'URRY. Between three and four hundred thousand acres.

Mr. SMITH, of California. You have lost that much?

Governor C'URRY. Yes, sir.

The CHAIRMAN. I think the suggestion that has been made by Mr. Holcombe as to the additional relief that this will give you is very important—the relief included in the first five or six lines of section 2275, in regard to settlements on unsurveyed land.

Governor C'URRY. Yes, sir.

The CHAIRMAN. If there is any question as to the respective rights of the settlers and the State under those circumstances, it is very important that that question be settled, and settled in the interest of the settler.

Governor C'URRY. This would settle it in the interest of the settler.

Mr. HALL. Has the State of Utah been relieved from that limitation, Mr. Holcombe?

Mr. HOLCOMBE. Yes, sir.

Mr. HALL. And this is substantially the same as the manner in which Utah was relieved?

Mr. HOLCOMBE. Yes. Utah was granted four sections—16, 36, 2, and 32, to be settled; and I think it was in 1896 or 1898 that an act was passed making the act of February 28, 1891, applicable to Utah, in the matter of the administration of the land grant.

Mr. HALL. So that at the present time New Mexico stands alone in this limitation?

Mr. HOLCOMBE. Yes, sir, exactly; and for administrative reasons the Department is very anxious that it be placed upon the same basis, so that there may be no distinction in administering the land laws.

Mr. SMITH, of California. Governor Curry, could not this matter have been covered by a revision of section 1 of the act of 1898?

Governor CURRY. This bill was drawn by the Interior Department. All we care for is to be allowed to select the lands, you know. You gentlemen can, with Mr. Holcombe, who is here representing the Interior Department, change it in any way you desire. All we want is results. We want to be allowed to select those lands as soon as possible.

Mr. SMITH, of California. It seems like a somewhat involved law, to say that a certain act shall be administered according to another act. I do not quite catch the difference between the acts of 1898 and 1891.

The CHAIRMAN. The provision is that "the grant of school lands to said Territory, and indemnity therefor, shall be administered and adjusted in accordance with the provisions of said act of 1891."

Mr. SMITH, of California. "Anything in the act of 1898 to the contrary notwithstanding." The implication, it seems to me, would be that it repeals certain provisions of the act of 1898. Why was not the act of 1898 put in the bill in its repealed form? Could not the act of 1898 say what you want to say? Would not that be the simpler form of legislation, making it more easy to understand what the section means?

The CHAIRMAN. I am inclined to think that the legislation is, perhaps, in proper form; but it is a matter that I think the committee ought to carefully consider, as to just what the effect of this legislation upon the latter act is. I think we have a very clear understanding of what you gentlemen desire.

Mr. SMITH, of California. I am in sympathy with the purpose of the bill, but I do not think that would be the best form to be understood.

Governor CURRY. Is there any other question the committee would like to ask?

The CHAIRMAN. I think that is all, Governor, unless some member of the committee has some question to ask about some of the various bills.

Governor CURRY. We would appreciate it very much if you gentlemen would, after determining on what your action is to be, report it as soon as possible. I desire to say that our Delegate is sick and confined to bed, and probably will be for some time, and we feel as though some of us should remain here until the bills reach the Senate, in order to go before the Senate committee, possibly, if it should become necessary. We are anxious to return home, so we would appreciate it if that might be done.

The CHAIRMAN. The Chair will refer the bill 9205 to a subcommittee for report as to whether the bill is drawn in proper form, and Mr. Smith, Mr. Hall, and Mr. Hamilton—

Mr. SMITH, of California. I would like to have somebody else named in my place.

The CHAIRMAN. Mr. Parsons, Mr. Hall, and Mr. Hamilton will compose the subcommittee.

While I had some doubts about it in the first instance, I am rather inclined to think that the legislation is all right as it stands; but it is important that we should know just how our legislation may affect the grant to the Territory, in addition to giving the right to select anywhere in the State.

Governor CURRY. Yes, sir.

The CHAIRMAN. It unquestionably settles the question as to the rights of the settler on unsurveyed lands, which, as I understand, Mr. Holcombe, you do not think is clearly established in the grant to New Mexico.

Mr. HOLCOMBE. No, sir; it is not.

The CHAIRMAN. It is exceedingly important that that should be settled, because otherwise we would have continuous conflicts when the surveys are made. New Mexico has a good deal of unsurveyed land, has it not?

Governor CURRY. Yes, sir; a great deal of unsurveyed land.

The CHAIRMAN. How much of the area of New Mexico, roughly, is in private ownership—that is, in taxable ownership?

Governor CURRY. I have the figures with me, but I do not remember just what they are.

The CHAIRMAN. It is a comparatively small proportion of the area, is it not?

Governor CURRY. Yes, sir; a comparatively small proportion. That is, excluding the large land grants—the large Spanish land grants. We have several large Spanish land grants, but outside of the land grants the acreage owned by private individuals is a very small percentage.

The committee thereupon went into executive session, and subsequently adjourned.







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